

SOUTH DAKOTA BOARD OF NURSING

**RECEIVED
OCT 10 2001
SD BOARD OF NURSING**

**IN THE MATTER OF THE
LICENSURE PROCEEDINGS**

**RE: JANET McCORMICK
License No. R-020034**

STIPULATION AND ORDER

Licensee,

WHEREAS, JANET McCORMICK (“Licensee”), is licensed to practice as a registered nurse in the State of South Dakota and holds License Number R-020034; and

WHEREAS, during Licensee’s employment at Wesleyan Health Care Center in Rapid City, S.D. on or about February 14-15, 2001, Licensee gave sublingual nitroglycerine to CM, a resident, without a physicians order, she did not get a physicians order by the time she left her evening shift, and Licensee failed to notify the physician of patient CM’s complaints of chest pain, leading to her discharge form Wesleyan Health Care Center on February 15, 2001, and such alleged conduct, if proven, would be in violation of SDCL § 36-9-49(5),(7) and (10), in that such conduct would be inconsistent with the health and safety of persons entrusted to her care, would violate provisions of the rules and statutes regulating the practice of nursing, and would be unprofessional; and

WHEREAS, Licensee was previously placed on probation with the Board of Nursing on April 16, 1998, stemming from previous incidents of charting and documentation errors relating to patients in her care and other violations. Licensee was denied early closure of her probation

on July, 15, 1999, because of probation infractions and finally had her probationary monitoring completed on January 28, 2000.

WHEREAS, the Licensee recognizes that these matters, if proven, are of a nature which would constitute grounds for the discipline of her license to practice nursing in South Dakota under SDCL §36-9-49; and

WHEREAS, the South Dakota Board of Nursing (hereinafter “the Board”) has a statutory obligation to protect the public health, safety and welfare set forth in SDCL §36-9, including the protection of the public from unsafe nursing practices and practitioners; and

WHEREAS, the Licensee has requested the Board’s Executive Secretary to present this Stipulation to the Board for action and recognize that the Board may approve this Stipulation, reject it, or modify it; and

WHEREAS, in the event the Board, in its discretion, does not approve this settlement or a lesser remedy that indicated in this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced by either party. Licensee agrees that if the Board rejects this Stipulation and this case proceeds to hearing, Licensee will assert no claim that the Board was prejudice by its review and discussion of this Stipulation or any of the records or information relating hereto; and

WHEREAS, the Licensee has expressed a desire to resolve this matter without the necessity of additional formal disciplinary proceedings and hearings; and

WHEREAS, it is the intent of this Stipulation to provide for settlement of the licensing issues presented by the Licensee’s conduct, in a professional manner, without the necessity of further hearings and proceedings herein, and to provide for a responsible solution; now, therefore,

IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

1. That the Board has jurisdiction over the person of the Licensee and the subject matter of this Stipulation.
2. During Licensee's employment at Wesleyan Health Care Center in Rapid City, S.D. on or about February 14-15, 2001, Licensee gave sublingual nitroglycerine to CM, a resident, without a physicians order, she did not get a physicians order by the time she left her evening shift, and Licensee failed to notify the physician of patient CM's complaints of chest pain, leading to her discharge from Wesleyan Health Care Center on February 15, 2001, and such alleged conduct, if proven, would be in violation of SDCL § 36-9-49(5),(7) and (10), in that such conduct would be inconsistent with the health and safety of persons entrusted to her care, would violate provisions of the rules and statutes regulating the practice of nursing, and would be unprofessional.
3. The Licensee has been given the opportunity to discuss this Stipulation with an attorney of Licensee's choice, and is aware of Licensee's right to a hearing in this matter, and all rights under the United States and South Dakota Constitutions, laws, rules and/or regulations. Licensee hereby voluntarily waives all such rights to a hearing, notice, appearance, or any other rights under said Constitutions, laws, rules and/or regulations. Licensee is entering into this Stipulation voluntarily and without duress or compulsion. Licensee also agrees that the Board's Executive Secretary may present this Stipulation to the Board and disclose to the Board all items of her investigation, including, but not limited to, any communications with Licensee.
4. Licensee, prior to entering into the probation described in paragraph 5 below, shall successfully complete a Board-Approved refresher course in nursing practice. Said refresher course shall be successfully completed on or before January 31, 2002. The preceptor for the clinical portion of the refresher course shall communicate any concerns to the Board staff. During the time between the date hereof and the date of completion of the refresher course, Licensee shall be allowed to be employed only in a clinic office setting preapproved by the Board Staff and only with another RN in good standing with the Board in a direct on-site supervisory role to Licensee. Said supervisor shall furnish weekly verbal reports and monthly written reports to the Board staff concerning Licensee's ability to safely practice her RN duties, her compliance with the facility's policies and procedures, her decision making skills and her ability to follow established protocol. **Should Licensee violate any terms of this paragraph, or should Licensee's supervisor voice concerns with Licensee's practice, Licensee agrees that the Board may take any action up to and including a revocation of Licensee's nursing license in South Dakota. Licensee further agrees that if she does not successfully complete the refresher course on or before January 31, 2002, Licensee nursing license shall be indefinitely suspended for a**

minimum period of two years, after which Licensee may apply for reinstatement according to law for good cause.

5. Licensee's license to practice nursing is placed upon a probationary status for a period of twenty-four (24) months of employment in nursing practice from the later of (a) the dated this Stipulation is approved by the Board and (b) the dated the Licensee successfully completes her refresher course as described in paragraph 4 above, which probationary terms and conditions shall be completely followed by the Licensee as follows:

CONDITIONS

1. Licensee will notify the Board of any employment in the health care field, including changes in employment. Furthermore, the Licensee will inform any current or prospective employer with whom she seeks employment as a nurse, as to the subject matter and the nature of the proceedings and the Stipulation. Licensee would further agree that any such employer would during the first year of probation, be required to provide quarterly reports to the Board as to her progress as an employee, and during the balance of the probationary period provide reports on a basis of every six (6) months. The reports shall provide and/or address:

- a) In the first report, evidence that Licensee's supervisor has received a copy of the order within ten ((10) days) of service or within ten (10) days of Licensee beginning a new employment;
- b) Licensee's attendance and reliability;
- c) Licensee's ability to practice professional nursing, including the exercise of clinical decision-making, interpersonal relationships with co-workers, clients/families and adherence to documentation standards;
- d) Licensee's ability to carry out assigned functions, including the Licensee's decision making, critical thinking, ability to establish priorities, ability to safely perform RN duties, and compliance with the facility's policies and procedures;
- e) Licensee's ability to handle stress;
- f) Number of hours Licensee worked during the reporting period;

- g) Any other information which the supervisor believes would assist the Board in its ultimate review of the case.
 - h) The employer agrees to report any concerns or violations of the Stipulation and Order or the Nurse Practice Act (SDCL 36-9) to the Board of Nursing immediately.
2. Licensee shall not be employed by a temporary agency.
 3. Licensee shall observe the following employment restrictions: may only practice under the on-site supervision of a registered nurse in good standing with the Board for a minimum of six months of active practice in nursing.
 4. Licensee shall arrange with the Board staff probationary meetings which due to the distance between Rapid City and Sioux Falls South Dakota may be telephonic once every three (3) months during the first year of probation. Thereafter, probationary meetings will be arranged by the Licensee every six (6) months for the balance of the probationary period. It will be the obligation of the Licensee to schedule these meetings at such time and place as the Board staff would reasonably designate.
 5. Furthermore, the Licensee will submit a self-evaluation report to the Board office prior to each probationary meeting. The report shall provide and/or address:
 - a) Licensee professional employment status, including employer support, peer support, and ability to handle stress;
 - b) Licensee's future professional goals for nursing;
 - c) Licensee's future personal goals; and
 - d) Any other information which the Licensee believes would assist the Board in its ultimate review of the case.
 6. Licensee shall at any time during the period of probation, report in person to such meetings of the Board or to its designated representatives as directed and otherwise fully cooperate with the Board or its representatives in the terms of this probation.

7. Licensee shall not violate any law or regulation regarding the practice of nursing.
8. Licensee shall execute all release of information forms as may be required by the Board or its designee.
9. Within ten (10) days of the effective date of the order, Licensee shall submit her current renewal certificate to the Board office to be stamped "PROBATION"
10. Licensee shall notify the Board, in writing, within one (1) week of any change in nursing employment, personal address and/or telephone number.
11. Licensee shall pay for all costs and expenses in carrying out any conditions of the probation.
12. Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, they must first be approved by the Board prior to leaving the state. If Licensee fails to receive such approval before leaving the state, none of the time spent out-of-state will be credited to the fulfillment of the terms and conditions of this Order.
13. In the event that the Licensee does not work in nursing within two (2) years of the effective date of the Order, Licensee may petition the Board for reevaluation of the probationary conditions.
14. If Licensee obtains a license issued solely or under joint regulatory powers by the Board, other than the license to which this Stipulation refers, at any time during the period of the probation, the terms of this probation shall apply to the other or additional licenses issued by the Board.
15. Notwithstanding anything in this Stipulation and Order to the contrary, should the Licensee be convicted of a felony which would be grounds for discipline under SDCL § 36-9-49, either relating to the allegations herein or to any other actions or omissions of Licensee, the

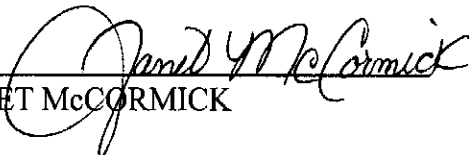
Licensee agrees that the Board may take further action against her license, including, but not limited to, immediate suspension, additional probation terms, or an additional length of probation, or other disciplinary action. Licensee agrees to immediately inform the Board of the outcome of any criminal charges presently or hereafter pending against Licensee.

16. All provisions and conditions of this Stipulation shall carry over to any license or privilege to practice that the Licensee receives pursuant to the Interstate Nurse Licensee Compact (SDCL 36-9-92).

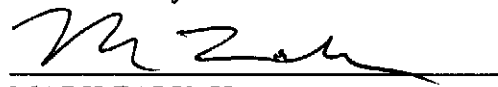
17. If any condition of this probation is violated, the Licensee agrees that the Board may take such actions as the Board deems necessary up to and including a total and complete revocation of Licensee's licensing rights as a nurse in South Dakota.

NOW, THEREFORE, the foregoing Stipulation is entered into and is respectfully submitted to the Board with the request that the Board adopt its terms as an order of the Board in the above matter.

Dated this 3 day of October, 2001.



JANET McCORMICK



MARK FALK, Her Attorney
P.O. Box 1235
Rapid City, South Dakota 57709

The South Dakota Board of Nursing meeting on the 20th day of September 2001, (approved) (~~rejected~~) the attached Stipulation (as written) (with the following modifications):

and issued its order of probation consistent herewith as follows:

IT IS HEREBY ORDERED that the above Stipulation is adopted shown herein by the South Dakota Board of Nursing this 20th day of September, 2001, by vote of

8-yes; 0-No.

Diana VanderWoude
Diana Vander Woude, Executive Secretary